

EXPENSES OF TRANSPORTATION AUDIT CONTRACTS AND CONTRACT ADMINISTRATION

PURPOSE OF THE APPROPRIATION

This is a permanent indefinite appropriation that finances contracts, and the expenses of contract administration, for the audit by commercial firms of carrier transportation bills paid by the Government.

The appropriation is derived from overcharges collected and similar refunds, and is available for new obligation only during the year for which authority has been apportioned by OMB.

AUTHORITY FOR THE PROGRAM

Public Law 99-88, Supplemental Appropriations Act, 1985, of August 15, 1985 initially provided authority through September 30, 1989 for the use of collections to finance contract audit costs; authority was subject to annual limitations. Public Law 99-627 of November 7, 1986 permitted prepayment audits for selected transportation bills, permanently authorized payment of transportation audit contractors from carrier overpayments collected, and authorized the transfer of net overpayments collected to the Treasury.

HISTORY OF THE PROGRAM

GSA first assumed responsibility for the audit of carrier transportation billings in 1975, when the function was transferred to it from the General Accounting Office (GAO) by the General Accounting Office Act of 1974, 31 U.S.C. 3726. The mission was performed by the Federal Supply Service (FSS) until 1979, when it was assumed by the newly-created Transportation and Public Utilities Service (TPUS).

Transportation audits were performed exclusively by in-house personnel through 1982, when GSA proposed that commercial audit firms be used to augment in-house effort. GAO determined (B-198137 of June 3, 1982) that contracting was appropriate for functions that were not inherently a Government responsibility, such as identifying overcharges and notifying carriers to make refunds. Based on this, 1983 appropriation language for Operating Expenses, TPUS was changed to include "...for transportation audit contracts and contract administration for which payment to any contractor shall not exceed 50 per centum on the overpayment identified by any contract audit...."

When TPUS and FSS were combined in 1983 into a new Office of Personal Property (later Office of Federal Supply and Services, then renamed Federal Supply Service), transportation audit functions and authorities were transferred to the Office of the Comptroller, under the General Management and Administration (GMA) account. GMA appropriation language for 1984 through 1986 included the same contract audit provision as had been under OE, TPUS.

In 1983, \$360 thousand was obligated for the first contracts with commercial audit firms; this grew to \$1.6 million in 1984, and to \$2.5 million in 1985. As private firms became more proficient, the level of identified overcharges substantially increased: \$1.4 million in 1983, \$6.3 million in 1984, and \$8.5 million in 1985.

It became apparent, however, that the program could not realize its full potential as long as it had to compete with other programs for limited - and decreasing - direct appropriations. Congress therefore included authority in the 1985 Supplemental Appropriations Act to use overcharges collected from carriers to finance both the cost of the commercial contracts and the expenses of administering them. This authority, effective through fiscal year 1989, limited use of collections to no more than \$5.2 million annually; collections over this amount (or over actual contract and administration costs, if lower) were returned to agencies.

GSA Order ADM 5440.333 of November 1, 1985 reassigned the Office of Transportation Audits from the Office of the Comptroller back to FSS, effective November 17, 1985. Beginning in 1986, in-house audits are funded by Operating Expenses, Personal Property (see that section of the Digest) under the Transportation budget activity, and contract audits under the new appropriation established by the 1985 act.

Pub. L. 99-88 established a limitation on contract and contract administration expenses at not to exceed 40 percent of carrier overcharges collected, and Pub. L. 99-627 of November 7, 1986 permanently authorized the appropriation and provided that, after deducting authorized expenses, the balance of collections would be transferred to miscellaneous receipts of the Treasury, rather than returned to agencies.

Title VI, sec. 620A of Pub. L. 103-123, November 15, 1993 amended 31 U.S.C. 3726 to remove the 40 percent limitation on overcharge use to permit full use of the overcharges in funding the program.

AUTHORIZING LANGUAGE

Initial authorization for the permanent appropriation appeared in the 1985 Supplemental Appropriations Act, Pub. L. 99-88 of August 15, 1985, under the heading General Management and Administration:

"Provided, That expenses of transportation audit contracts and contract administration shall be in addition to this amount and shall be financed from overcharges collected from carriers on transportation bills paid by the Government and other similar type refunds at not to exceed \$5,200,000 annually. This proviso will be effective from date of enactment of this Act through September 30, 1989;"

Pub. L. 99-627 of November 7, 1986 amended 31 U.S.C. 3726 by adding the following:

" (c) Expenses of transportation audit contracts and contract administration shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type refunds at not to exceed 40 percent of such collections annually. Payment to any contractor shall not exceed 50 percent of the overpayments identified by any contract audit.

"(d) At least annually, and as determined by the Administrator, after making adequate provision for expenses of refunds to carriers, transportation audit contracts, and contract administration authorized in subsection (c), the balance of the overpayments collected by the General Services Administration shall be transferred to miscellaneous receipt [sic] of the Treasury. A report of receipts, disbursements, and transfers (to miscellaneous receipts) pursuant to this section shall be made annually in connection with the budget estimates to the Director of the Office of Management and Budget and to the Congress.

"(e) The Administrator may delegate any authority conferred by this section to another agency or agencies if the Administrator determines that such a delegation would be cost-effective or otherwise in the public interest."

Pub. L. 103-123 of November 15, 1993 amended 31 U.S.C 3726 to modify subparagraphs (c) and (d) as follows:

" (c) Expenses of transportation audit prepayment contracts and contract administration, and the expenses of all other transportation audit and audit related functions conferred upon the Administrator of General Services, shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type refunds, not to exceed collections. Payment to any contractor for audit services shall not exceed 50 percent of the overpayments identified by contract audit.

"(d) At least annually, and as determined by the Administrator, after making adequate provision for expenses of refunds to carriers, transportation audit postpayment contracts, contract administration, and other expenses authorized in subsection (c), overpayments collected by the General Services Administration shall be transferred to miscellaneous receipts of the Treasury. A report of receipts, disbursements, and transfers (to miscellaneous receipts) pursuant to this section shall be made annually in connection with the budget estimates to the Director of the Office of Management and Budget and to the Congress.

PRINCIPAL FINANCIAL ASPECTS OF THE PROGRAM
\$ (thousands)

<u>Fiscal Year</u>	<u>Receipts</u>	<u>Transfers To Treasury</u>	<u>Year-End Treasury Balance</u>	<u>Appropriation</u>	<u>Outlays</u>
1986	32,957	-----	34,414	7,600	2,762
1987	47,227	19,000	46,163	10,506	7,597
1988	52,040	39,000	41,599	13,040	9,083
1989	73,000	58,400	38,804	15,000	9,508
1990	39,400	45,293	23,484	9,504	10,398
1991	40,200	10,000	51,422	12,356	10,062
1992	11,200	2,243	40,000	15,415	11,698
1993	5,000	1,439	45,707	10,061	9,307
1994	19,000	10,000	48,933	14,222	13,478
1995	9,000	--	43,488	14,452	10,851
1996	10,700	7,100	37,284	14,254	9,637
1997	3,000	8,000	18,933	14,521	9,294

EMPLOYMENT DATA

<u>Fiscal Year</u>	<u>Permanent Positions</u>	<u>Average Empl (FTE)</u>
1986	2	13
1987	17	21
1988	19	21
1989		15
1990		11
1991		33
1992		45
1993		45
1994		104
1995		94
1996		86
1997		82
